
EVALUATOR MANUAL TRANSMITTAL SHEET

<u>Distribution:</u> <u> X </u> All Child Care Evaluator Manual Holders <u> </u> All Residential Care Evaluator Manual Holders <u> </u> All Evaluator Manual Holders	<u>Transmittal No.</u> 14APX7
	<u>Date Issued</u> January 2014

Subject:

Appendix A – Chaptered Legislation

AB 1991/ Smyth - Child Care: Exemption from licensure - Public Recreation Programs

AB 2109/Pan - Communicable disease: Immunization exemption

AB 2343/Torres - Criminal History Information

AB 1707/ Ammiano - Child Abuse Central Index

Reason for Change:

This document transmits summaries of legislation chaptered in 2012 affecting Child Care Facilities. Statutes referenced in this document will become operative on January 1, 2014 unless otherwise noted.

Filing Instructions:

REMOVE: 13APX04 2012 Chaptered Legislation for Child Care Centers and Family Child Care Homes.

INSERT: 14APX7 2012 Chaptered Legislation for Child Care Centers and Family Child Care Homes.

Approved:*Signed by Nancy Lunardi**1/16/2014*

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SUMMARY AND IMPLEMENTATION PLANS 2012 CHAPTERED LEGISLATION

CHILD CARE CENTERS AND FAMILY CHILD CARE HOMES

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Unless otherwise noted, all new legislation becomes effective on January 1, 2014. When conducting inspections, LPAs should ensure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.

ACTION REQUIRED

AB 1991 (Smyth), CHAPTER 122, STATUTES OF 2012

Affects: Child Care Centers

Subject: Child Care: Exemption from licensure—Public Recreation Programs

Summary: AB 1991 amended Health and Safety Code Section 1596.792(g)(1) to expand the hours of operation and number of weeks public recreation programs may operate exempt from child care licensure (provided the program meets the criteria listed in the law):

- From 16 hours per week, to **20 hours per week**, and
- From 12 weeks or less, to **14 weeks or less** during a 12-month period.

Public recreation programs identified in Health and Safety Code Section 1596.792(g)(1) are operated:

- By the state, city, county, special district, school district, community college district, chartered city or chartered city and county.
- Only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or
- Only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located.

Note: The bill does not affect or change the hours and weeks a public recreation program may operate without a license under Health and Safety Code Section 1596.792(g)(2) and (3).

Implementation:

This bill will be effective January 1, 2013.

Effect on existing licensed facilities:

As a result of the change in the law, it is feasible that commencing January 1, 2013, some facilities that have previously obtained a license to operate a public recreation program may no longer require their license. Some facilities will be able to give up their license and can continue to legally operate.

For example, a facility that currently operates a public recreation program that exceeds either 16 hours per week or exceeds a total of 12 weeks or more during a 12-month period, should have a license. However, beginning January 1, 2013, the license may no longer be needed if the hours of operation of the public recreation program are within the new parameters set by this bill (i.e., under 20 hours per week, or for a total of 14 weeks or less in a 12-month period).

Effect on unlicensed facilities:

When a Regional Office (RO) receives a complaint alleging that a facility is operating without a license, CDSS is required by law to review the complaint and make an onsite inspection within 10 days of receipt of a complaint.

If it is determined that a facility is providing nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis, a child care facility license will be required, unless the facility meets one of the exemptions from licensure.

The Licensing Program Analyst (LPA) will evaluate whether the facility meets any of the exemptions. If the facility does not meet any of the exemptions, the LPA will issue a Notice of Operation in Violation of Law (LIC 195), and the facility operating the public recreation program will be required to either:

1. File an application for a child care center license within 15 days, or
2. Cease unlicensed operation.

Failure to comply with the Notice of Operation in Violation of Law (LIC 195) may result in criminal prosecution and/or civil proceedings.

In addition, if it is determined that a facility/program is continuing to operate without a license, a \$200 per day penalty will be assessed until operation ceases or an application is submitted to the RO.

AB 2109 (PAN), CHAPTER 821, STATUTES OF 2012

Affects: All child care facilities

Subject: AB 2109 communicable disease: immunization exemption

Summary: AB 2109 amended Health and Safety Code Section 120365, relating to communicable disease to require an additional form prescribed by the State Department of Public Health (CDPH). This form shall be signed by an authorized health care practitioner and parent or guardian when exempting a child from required immunization(s) due to personal beliefs.

In order to obtain an exemption to immunizations based on personal beliefs, starting January 2014, parents must be counseled by an authorized health care practitioner and informed of the benefits and risks of immunization and the health risks of communicable diseases.

The CDPH form, CDPH 8262, includes:

- A letter or affidavit requesting an exemption that states that the required immunization(s) is contrary to their beliefs;
- A written statement signed by a health care practitioner indicating information was provided regarding the benefits and risks of immunization; and
- A written statement signed by the parent or guardian which would indicate the information was received by the health care practitioner.

Statements shall be signed no more than six months before the date the person was subject to the immunization requirements.

If a parent or guardian is exempting their child from immunization due to a religious belief, then a signature from a health care practitioner is not required.

Note: The law states that a copy of the signed form is acceptable.

Parents do not always have personal beliefs against all required vaccines; most children with exemptions have received some of their required vaccines. Unless exempt, parents must show the school or child care facility a valid record of the immunizations required for school or child care that their child has received.

Implementation:

This bill will be effective January 1, 2014.

Current regulatory requirements:

- 1) A physician provides a written statement that an immunization should not be given to the child and specifies how long this exemption is expected to be needed; OR
- 2) The child's authorized representative provides a written statement that immunizations are contrary to his/her personal beliefs.

Effect on existing licensed facilities:

As a result of the change in law, the Licensing Program Analyst (LPA) will review the immunization records. For children starting child care on or after January 1, 2014, and who are exempt from an immunization(s), the LPA will ensure that the file has the Public Health Form, [CDPH 8262](#), with necessary signatures dated no more than six months before the date the person was subject to the immunization requirements. The LPA shall also check that the dates of immunizations are recorded on the [PM 286](#) for the required immunizations that were received.

LPAs shall advise licensees during comprehensive inspections that this new law is now effective and recommend that licensees become familiar with these new requirements.

Children with existing vaccination exemptions on file for vaccines required for prior entry will not be required to file a new form. Parents/authorized representatives need to file a new exemption form when their child is being newly admitted into a public or private child care or when their child is subject to a new immunization requirement.

Modifications to the Evaluator Manual will be made to reflect these new requirements, and applicable regulations will be promulgated to ensure compliance with this new law.

ACTION REQUIRED

AB 2343 (Torres), Chapter 256, Statutes of 2012

Affects: All Community Care Facilities (CCF), Residential Care Facilities for the Elderly (RCFE), Residential Care Facilities for the Chronically Ill (RCF-CI) and all Child Care Facilities (CCF).

Subject: AB 2343 Criminal History Information.

Summary: AB 2343 amends Sections 11105 and 11105.2 of the Penal Code, relating to criminal history information.

AB 2343 authorizes the Department of Justice (DOJ) to provide subsequent conviction information to CCLD. Previously DOJ provided this information without authority. DOJ ceased this practice in March of 2011.

In addition, this bill requires that CCLD provide an individual a copy of their entire criminal history record if the record is the basis for an adverse employment, licensing or certification decision.

Implementation: These provisions will be effective January 1, 2013. CBCB will revise its processes, the Evaluator Manual and the letters sent to individuals to include this information.

INFORMATION ONLY – NO ACTION REQUIRED

AB 1707 (Ammiano), Chapter 848, Statutes of 2012

Affects: All Children's Residential Community Care Facilities (CCF) and Child Care Facilities (CCF).

Subject: AB 1707 Child Abuse Central Index

Summary: AB 1707 amends Sections 11169 of the Penal Code relating to the Child Abuse Central Index (CACI).

This bill will require the removal of any person listed in the CACI if:

- The person was listed prior to reaching 18 years of age
- The person is listed only once in the CACI with no subsequent listing
- Ten years have lapsed since the date of the incident resulting in the CACI listing

Implementation: These provisions will be effective January 1, 2013.